



SENATE  
PUBLIC HEALTH, WELFARE & SAFETY  
Exhibit No. 4  
Date 2/11/2015  
Bill No. SB 276

Proposed     Testimony on Senate Bill 276  
Sponsor:     Senator Roger Webb  
Before        Senate Public Health, Welfare and Safety Committee

Title:    A bill for an act entitled: An act establishing a directory of providers of certain personal assistance or attendant services or supports; prohibiting the collection of certain information; and providing the Department of Public Health and Human Services with rulemaking authority to create and maintain the directory."

My name is Kelly Williams; I am the Administrator of the Senior and Long Term Care Division in the Department of Public Health and Human Services. The Division provides oversight and management of Medicaid services and supports programs targeted at keeping people in need of services in their homes and communities when possible as an alternative to institutional care.

It does this through Medicaid state plan programs, **Personal Assistance Services and Community First Choice Services** as well as with additional services that are only available through a **Home and Community Based Waiver Program**.

The goals of the Personal Assistance, Community First Choice and HCBS waiver programs are to prevent or delay institutionalization by providing medically necessary maintenance or supportive care in the home to Medicaid members whose health problems cause them to be functionally limited in performing activities of daily living.

Montana offers either an "agency-based" program where enrolled provider agencies manage the services on behalf of the member, or a "self-direct" program, which allows members to hire, train, manage, schedule and discharge their attendants. Under self-direct programs a provider agency must still act as the employer of record for direct-care workers for the purposes of payroll and federal hiring practices.

All of these programs are heavily reliant and dependent on Medicaid for their funding. There are approximately 50 provider agencies that deliver these services who are enrolled in the Medicaid program that would be required to be included in the electronic directory of providers.

The department believes that there should be a clarification made to New Section 1: (4) that states "the department may exclude or remove a provider from the directory for misrepresentation of information." The provider name should remain in the directory if

they continue to participate in Medicaid services. The data that may be excluded or removed should be related to the voluntary information should that data contain misrepresentation.

**The Department opposes the New Section 1: (5) provisions that do not allow the department to collect personally identifiable information about direct-care workers.**

The Department of Public Health and Human Services adopted a reporting requirement for the self direct personal assistance and community first choice program provider agencies through the Montana Administrative Procedures Act to be effective January 1, 2015. These rules promulgated at ARM 37.40.1127 and 37.40.1018 require that "Effective January 1, 2015, self-directed personal assistance and community first choice provider agencies must provide quarterly reports for all self-directed personal care attendants employed by the agency, in the format specified by the department. The quarterly report must include the names, addresses, and phone numbers, wages, years of experience in aging and disability services, availability of employee-sponsored health insurance, whether a background check was conducted, and , if so whether it was a finger print criminal background check."

None of this requested information contains protected health information PHI or is protected under the Health Insurance Portability and Accountability Act (HIPPA), or requires the reporting of Social Security Numbers to the Department. The information that will be gathered through this quarterly reporting will be used to evaluate this work force for quality, stability, and sustainability. The department may decide to create a voluntary online directory that could assist a member in choosing a personal assistant once they see and evaluate the reported information. The department will also work with provider agencies and consumers, within the framework of the self-directed model, to make decisions on identifying and responding to workforce training needs that may be identified through the reports.

The Department of Public Health and Human Services would urge you **to oppose** this legislation as it relates to the limitation on gathering of information necessary to manage the Medicaid program in New Section 1 (5) of this Bill. This Legislation if adopted will invalidate the Administrative Rules that were adopted by the Department, focused at gathering information regarding the delivery of services and the accountability and sustainability of these services and for the management of a Medicaid funded service program. This would limit the Departments ability to gather information in order to appropriately manage the Medicaid funded personal assistance or attendant services.

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